

## CAMORRA TRIAL COLLAPSES

## TIERED JURY REFUSES TO HEAR MORE EVIDENCE.

Dozens of Witnesses Summoned Refuse to Appear and Testify. Promise of Two Weeks Summing Up the Last Straw With the Jurors' Court Session.

Rome, Dec. 21.—The jury in the Camorra trial at Viterbo has notified the president of the court that it needs to hear more evidence. The trial appears to be on the verge of a collapse.

The jury, which has been sitting since early in March, has heard that the public prosecutor intends to consume two weeks in summing up his case, and the advocates for the defendants also declare that they will need much time in which to address the court. Inasmuch as each prisoner has an advocate, the jury fears that the trial will be prolonged hopelessly.

Last week many witnesses refused to appear in court. When their names were called they did not answer. It was thought ten days ago that there would be a mutual agreement between prosecution and counsel for the prisoners to eliminate the two minor witnesses, and that the trial would be speedily ended. But the hope was not well founded.

Such witnesses as have testified have seemed to weaken the case of the prosecution. They swore to the good character of Errico Alfano, the reputed head of the Camorra, and testified also that the other prisoners were worthy men. They recalled the informer Abbateggio and Capt. Fabbroni of the carabinieri.

The Police Commissioner Cervino testified to the excellent character of Sortino, the barber. The police officer admitted that Sortino had done one atrocious murder, but said that the barber was on the whole an estimable gentleman.

## CONDITIONS OF THE TRIAL.

Ex-Mayor McClellan Describes His Two Visits to the Scene of It.

George B. McClellan, whom Mr. Gaynor succeeded as Mayor of New York, told to THE SUN yesterday the story of two visits which he made last May to Viterbo where the trial of the Camorristas already had been going forward for two months. Mr. McClellan was surprised to learn that the trial was drawing to a close, but he was not ready to believe that the case would go by default.

"Perhaps it will turn out to be a mistake," said he, "and then the thirty-two prisoners will have to be tried again. There have been similar cases in Italy before where a long case such as this had to undergo a second trial."

"But it may be that the jury is ready to give a verdict. It is quite possible that the vast amount of evidence which already has come before it has fixed the minds of the jurymen."

## JURY OF HIGH CLASS MEN.

"It is hard for us here to understand the peculiar excellence of that jury. There are few exemptions in Italy as compared with the number in the United States. There are practically no men exempt from jury duty there except soldiers and sailors on duty. On this jury, for instance, there are two doctors, two newspaper men and two college professors. The other six are of almost equal standing."

"And there is an arrangement of substitutes or alternates, so that if an active jurymen is taken sick or is obliged to drop out he will have some one familiar with the case to take his place."

Mr. McClellan did not seem to venture a prophecy as to what the verdict will be in this jury is ready to give one.

"When I left Italy," he said, "the lawyers for the defendants had not made out their case, according to the Italian point of view, nor had the Crown made out a case, according to ours."

## PRESUMPTION OF GUILT IN ITALY.

Mr. McClellan explained that in Italy the presumption is against the prisoner. He is presumed to be guilty until he is proved to be innocent. In consequence, the burden rests upon him and his advocate to show that he is innocent rather than, as in the American and English practice, to oblige the prosecution to prove that the prisoner is guilty.

## POLISHED PRISONERS.

"It is hard for me to tell you," said Mr. McClellan, "what a very good sort these prisoners appeared to be. They were quick, alert, intelligent; some of them look like educated gentlemen. Giovanni Rapi, for instance, who is charged with being one of those who planned the murder of the two Cuccolos, is to all appearances a very dignified, respectable gentleman. He buys his clothes at Poles', and when one of the prosecutors laughed when Rapi said so, Rapi declared that he would have a subpoena out for Poles in order to prove it."

"There are a number equally remarkable. Almost all seem to have travelled. They speak with equal unconcern of Naples, Buenos Ayres and New York. Of course, Buenos Ayres and New York are almost as great Neapolitan cities as Naples itself. But it strikes one as odd to hear the prisoners say: 'I was in New York that winter,' or 'That was the spring I spent in Buenos Ayres.'"

"When I was leaving the court after my first visit to Viterbo I was standing at the roadside when the prisoners were led by. One of them held up his manacled hands to me and said in good English, 'Tell them in New York that we are all innocent.'"

"That man had lived here and recognized me when I appeared in the court room."

## CHURCH THAT HELD THE TRIAL.

He found the court sitting in an old church which prior to the coming of Italian unity was part of a nunnery. For forty years it has been a court house, with the judges' bench placed where the altar used to stand. The convent has been transformed into court offices and police barracks.

In the south transept of the church are two cages, one a very large one, and a little one placed alongside. Mr. McClellan pointed out that the impression that the cages in the church at Viterbo indicated the desperate character of the prisoners was in error. It is customary in Italian courts, he said, to have the prisoners behind bars during the progress of the trial, quite in keeping with the

## Ask any diplomat

Laurens

Italian conception that the prisoner is guilty until adjudged innocent.

In the north transept was the jury, and on benches facing the president of the court and his two colleagues was an enormous crowd of advocates, for each prisoner had his lawyer. They were a solemn throng, clad in black gowns and each with his broad white tie. Close at hand were the witnesses, and behind them the newspaper men and the photographers. The entrance to the church, where those who came out of curiosity to see what was going forward in the court, and these had to stand in the hall, and in the courtyard.

TRIAL AN INFORMAL AFFAIR. "One could not help being struck," he said, "with the delightful informality of the trial. Every ten or fifteen minutes an adjournment would be taken so that the judges could go out for a cigarette and a sip of coffee. The court would retire and then everybody would stroll up and down the benches and talk with the men in the cages. They would joke back and forth and things would go very well until court was convened again."

"And that was not the end of the amusement. You remember what I said about the cleverness of the prisoners. Errico Alfano, one of those charged with planning the crime, sat down toward the front of the court and when he recognized a lawyer, he would be guided through the whole proceeding by Don Errico."

Don Don Errico thought the time had come for a demonstration; he would raise his hand and the whole body of prisoners would jump up and let out a shout after shout. The witnesses would shout, too, and the advocates would shout, and the people standing behind the rail. They would all get up and yell and stamp their feet and wave their arms. And then the judge would say: 'Good morning! Good evening! A pretty girl sitting at a window would not take her eyes from her sewing to look at them, which shows how unconcerned the populace was.'

"If it was a pleasant day there might be a hundred persons lounging outside of the church courtyard. There was no such thing as bribing attendants to get in or speculation in tickets, for there was no great rush for admission to the court room. The town was just sleepy. In the afternoon almost everybody took a nap. In the evening there was no more excitement on the streets than you would find in a New Jersey town, say in the Oranges."

"The first day I walked into the court room, and though it was the first time I had ever been in an Italian court house, I understood the situation at a glance. On one side were the prisoners in a cage. On the other side was the jury. The presiding judge and his associates sat between them just about as the judge does at a criminal trial in this town. In front of them was the prosecutor, corresponding to our District Attorney, and his assistants. There were about forty lawyers representing the prisoners. There were seats for about 120 persons, who were admitted upon application to the presiding judge. Of these back of the judge sat about thirty persons to stand. The court room was much smaller than those in this city."

THE PROCEEDINGS NOT A FARCE. "As to the trial being a farce, I saw no indication of it. It was carried on with practically no difference from our trials here. The Italians are emotional people and perhaps there was muttering by a prisoner when a direct accusation was made against him, but I have seen a prisoner here do the same thing and he was not in a cage and it would disturb no one. One prisoner, I was told, I didn't see. It became so warm that he took a glass eye from the pocket and threw it on the floor of the cage. But I have seen prisoners here become so hysterical that they had to be restrained by court attendants, and no one thought anything of it. I am quite certain that the newspaper accounts, or most of them, have been furnished by journalists who are actual Camorristas or sympathizers with the cause. There is also this to be said. If an Italian newspaperman went to the Criminal Courts building here and heard a man in a corridor curse the judge, he would hear him out of course, say a woman faint and heard a mother denounce a judge because she believed that her son had been unjustly sentenced, suppose all these things were carried to Italy, incidents to which no attention would be paid here, that would make the impression? That something like that has been going on at Viterbo is my belief."

## AN INCREDIBLE SITUATION.

"What would be done here if a jury told a judge that he had heard enough evidence and wanted the trial wound up? Why, the suggestion would not be entertained at all. It is no more likely to happen at Viterbo than in this country. The Government is in control and the judge has the same power as a court has here. Each side had 300 cell, but before the trial began there was a police intervention of defendants and witnesses, something like a hearing before a Police Magistrate here except that it was unusual and closed doors. So the names of witnesses and their testimony have been known for a long time. Over two hundred lawyers exchange briefs and the judge knows what to anticipate. He could not refuse to hear witnesses for the defence, but he could eliminate witnesses whose testimony was not relevant. So why should the judge allow the trial to end now, after it has gone nine months? And also it is hardly conceivable that the jury would complain of a few more weeks."

"It is not generally known that in Italy there was a similar trial in Viterbo. Bonella, the police chief of Naples, was murdered in Naples by the Camorristas. The prisoners, a number of them, were brought to Viterbo and they will be punished and all of them sentenced to life imprisonment."

## BELIEVES TRIAL WILL FINISH.

Baron di San Severino Sure That the Camorristas Will Be Punished. Baron Bernardo Quaranta di San Severino, who has been in this country several months studying political, sociological and other conditions, said there was no question in his mind that the Camorristas would be punished. He did not believe that the trial would not be finished.

"It is only a question of time," said Baron San Severino, "when the Camorra will be wiped out quite and clean. There will be no interference with this trial."

"Perhaps Americans have an unfortunate idea of our methods of criminal procedure, but it is not just. There is no doubt that the guilty will be punished. I have had no information as to recent developments, but it does not seem to me that the criminals will escape."

"The views expressed by Mr. Train I agree with heartily."

## HISTORY OF THE TRIAL.

Camorristas Specifically Accused of Murder of Gennaro Cuccolo.

The crime for which the supposed Camorristas were put on trial was the murder on June 8, 1908, of Gennaro Cuccolo, a man of the criminal classes of Naples, and of his wife, a woman of no character. Cuccolo was enticed to an inn near Naples to consider a plan of robbery and was seized upon by several men. Money was left in his pockets, and a knife

afternoon and said, 'Erricone, do you want to submit right away or will we have to extradite you?'

"I am a gentleman, and this is hard on my nerves," replied the fugitive, 'but I will go back to Italy as you say.'

He did, and when he was examined at the trial as to why he had run off to New York he laid it to these same nerves. He had been ordered by his physician to take a sea voyage, and of course, New York was the place for him to go to.

## AS ARTHUR TRAIN SEES IT.

Hard to Believe Trial Has Collapsed—What He Saw at Viterbo.

Arthur C. Train, lawyer and author, who attended the trial of the Camorristas at Viterbo in May, said yesterday that it did not seem likely to him that the trial would collapse.

"I have many reasons for this belief,"

Mr. Train said. "In the first place, I have some knowledge of the cable reports of this trial, of the manner in which it was being conducted, of the court proceedings and the jury. The jury, by the way, is of the very highest class, composed as it is of professors and business and professional men. They are not in fear of any one. They sit in court with their hats on and a law was passed providing for their pay, something which had never been done before in Italy. It does not seem at all probable that these men, after having sat in a trial for nine months, would contemplate quitting now, when in a few weeks, as the despatches say, it would be over."

## TRIAL DIDN'T INTEREST VITERBO.

"When I was in Viterbo, and it was at one of the most sensational periods of the trial, there was not much attention being paid to it in the town. The prisoners were taken daily from the penitentiary of Santa Maria di Gradi to the old church in which the trial was being held. The penitentiary up to 1870 was a Dominican monastery, founded in the thirteenth century, and where the monks had told their heads brigands swaggared and smoked."

"The prisoners were taken in hacks, black marias, from the monastery penitentiary, and as they passed by in the street they would salute as if in a trial for house with a lather, crept upstairs and murdered his wife. In the roundup of Neapolitan criminals which followed were many of those who were subsequently put on trial at Viterbo. But a few days after their arrest Don Ciro Vitozzi, a Neapolitan priest, went to the police and announced that he had been told in confidence who the true criminals were but that he could not reveal their names. At all events, they were not the ones whom the police had arrested. He said that if one of the police officers would go to an inn at some distance from Naples he would be met by one who would tell what he knew of the crime. The prisoners were released."

When the police followed out the scheme given by the priest they learned that the game was a ruse. For a time the case lay dormant, but the Duke of Austria went to the King, his cousin, and complained. The murder was put into the hands of the carabinieri, the military police, and Capt. Fabbroni, who had made a name for himself hunting Sardinian brigands, was set to work on the case.

One of his sergeants went to a boarding house where Camorristas were known to live and told the Duke of Austria that Abbateggio, little by little the sergeant got into Abbateggio's confidence. He said he wanted to be made familiar with Naples so that he could turn up jobs. Business was dull in Sardinia, Abbateggio let him into the secrets of the Camorra and at last boasted that he had committed a burglary."

Then Abbateggio confessed, too, that he wanted to be married, but had no money, whereupon the sergeant gave him what he needed, asking more and more questions about the Camorra. When he had learned all Abbateggio seemed ready to give he revealed his identity and arrested him for the burglary to which he had confessed. The arrest of the others alleged to be involved in the Cuccolo murders resulted chiefly on Abbateggio's evidence.

## FALCONIO TAKES HIS CHURCH.

Instead of Offering Refreshments He Gives Cost of Them to the Poor.

Rome, Dec. 21.—Cardinal Falconio took possession of his titular church of Santa Maria Araucoli to-day. The members of the delegations who accompanied Cardinals Farley and O'Connell, the students from the American College, and all the Franciscans in Rome attended the ceremony.

The General of the Franciscan order made an address in which he expressed his gratitude that Cardinal Falconio, a follower of St. Francis of Assisi, had been assigned to a Franciscan church. He wished long life to the new Cardinal, who, he hoped, would protect the order of which he is a member.

Cardinal Falconio replied, speaking in Italian. He recalled the importance of the church which was built on the remains of Jove's temple on the most celebrated hill of Rome. He declared that the Franciscans had Christianized the capital and invoked the prayers of the brethren of that order for himself. He concluded by imparting his blessing to the congregation.

A traditional custom is for a new Cardinal on taking possession of his titular church to give refreshments. Cardinal Falconio departed from this custom, and instead gave the money which the refreshments would have cost to the poor.

## FAIRY SHOW IN PARIS.

"Bon Petit Diable" Is for Children and Is a Successor to "Peter Pan."

Special Cable Dispatch to THE SUN.

PARIS, Dec. 21.—A fantasy in verse, entitled "Bon Petit Diable," the result of an unusual dramatic collaboration of that of mother and son and Maurice Rostand—was produced at the Gymnase Theatre to-night. It is founded on the Marquis Segur's fairy tale and undoubtedly owes its production to the success of "Peter Pan" and other English Christmas plays for children.

It introduces fairies and teaches the moral that elders must not be so severe to children. A complete change of key in the third act impairs the effect, but "Bon Petit Diable" nevertheless had an enthusiastic reception.

## CAPT. JAURES ACQUITTED.

Not Guilty in Explosion Which Destroyed French Battleship.

Special Cable Dispatch to THE SUN.

TOULON, Dec. 21.—Capt. Jaures and the officers of the battleship Liberté, which was destroyed by fire and explosion, have been acquitted by a court-martial of the charge of being responsible for the loss of that vessel.

## FRANZ JOSEF NOT WORSE.

Only Catarrh, Says Official Bulletin—Newspapers Confuted.

Special Cable Dispatch to THE SUN.

VIENNA, Dec. 21.—All to-day's afternoon papers were confiscated for reproducing a report from Budapest to the effect that the condition of Emperor Franz Josef was much worse owing to heart weakness.

An official bulletin issued later stated that the Emperor was bothered with a little catarrh of the throat, but was attending to state business as usual.

## NEW RUSSO-JAPANESE PACT.

A Fresh Commercial Treaty May Be Ratified Within the Month.

Special Cable Dispatch to THE SUN.

ST. PETERSBURG, Dec. 21.—Russia and Japan are negotiating a new commercial treaty, which may be ratified before the close of the year.

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## A MONARCHY, REPLIES YUAN

TELLS WU TING-FANG THAT A REPUBLIC WON'T DO AT ALL.

Peking Is Rather Backing the Premier—Delay in Constitutional Conference—Intervention of Powers Resented—Sun Yat Sen Reaches Hongkong.

Special Cable Dispatches to THE SUN.

PEKING, Dec. 21.—Premier Yuan Shih Kai has countered Wu Ting-fang's demand for a republic by an equally determined insistence on the retention of the monarchy under constitutional limitations.

He has forwarded a reply to that effect to Tang Shao Yi, the Government representative at Shanghai, adding that a limited monarchy will endure to the fullest as a representative government, while a republic would endanger Chinese unity.

Yuan Shih Kai in an interview also declared that he would never consent to a republic.

The prospect of the republicans winning their demands is not regarded with the same certainty as at Shanghai. Those familiar with Oriental bargaining are inclined to treat Dr. Wu's demand as merely the first move.

SHANGHAI, Dec. 21.—The conference between representatives of the Government and the republicans over the establishment of a new Government did not meet to-day owing to the fact that Tang Shao Yi, the imperial representative, had not received the instructions from Peking for which he had asked. Meanwhile opinion here is largely pessimistic in regard to the outcome of the negotiations.

Some of the revolutionists are disposed to resent the intervention of the foreign Powers in serving notice on the delegates through their Consuls that the war ought to come to an end. It is thought that it may beget an outbreak of anti-foreignism.

HONGKONG, Dec. 21.—Dr. Sun Yat Sen, the head of the Chinese revolutionists, accompanied by Gen. Homer Lee, his American adviser, arrived here to-day. He was met by a number of old friends, including some of the Republican leaders from Shanghai. Dr. Sun would not talk to reporters, but expressed astonishment at hearing that Wu Ting-fang, the head of the republican Provisional Office, had issued a warning to foreign financiers against granting loans to China.

He refused to comment on the proposals of Premier Yuan Shih Kai for a limited monarchy.

Gen. Lee said: "Our object is to stop the war as soon as possible, but I cannot see how a compromise is possible in regard to the form of government. If the principles of liberty are ignored America ought to lead in recognizing the new China and in aiding the latter to secure the liberty which she enjoys herself."

LONDON, Dec. 21.—The London office of the Hongkong and Shanghai Banking Corporation announced to-day that owing to the disturbances in China it had not received the funds for the service of the imperial loan of 1895, but it was prepared from January 1 to buy the face value of the coupons of the loan which are due on December 31.

## POPE'S DECREE ON TRIALS.

Must Have Church Permission to Summon Clergy, Says Translation.

Special Cable Dispatch to THE SUN.

DUBLIN, Dec. 21.—The *Express* prints what purports to be the English text of the recent papal decree concerning prosecutions of the clergy. It says whenever private individuals, whether laymen or clergymen, summon ecclesiastics in civil or criminal cases without ecclesiastical permission they will incur excommunication at the hands of the Pope.

The Protestants here are excited over the decree. They declare it is an outrageous absurdity in the twentieth century. Some Catholics who believe the decree is an innovation denounce it, and apparently many of the Catholic clergy have heretofore been unaware of its existence.

It is stated that the Government is perplexed as to whether it demands any notice or action. There has been much discussion on this point by the heads of the Irish Government.

LONDON, Dec. 21.—The *Dublin Express*, which is violently anti-Catholic, found a glorious mare's nest in the papal decree. Catholic authorities in London are much amused at this. They point out that the document on which the decree is based is centuries old, indeed almost as old as the Church itself. It was one of the points of controversy between Henry II and Archbishop of Becket, and the present decree is merely an interpretation of obscure parts of the original document for the purpose of preventing vexatious litigation or scandal by the summoning of ecclesiastics, as even cardinals have been summoned in Italy, before lay tribunals.

It is monstrously untrue, say these Catholic authorities, as some of those hostile to the Church have contended, that the Church seeks to make Catholics immune from prosecution in lay courts, but it is surely within the rights of the Church to discourage litigation by Catholics against the clergy. It rarely happens that permission to bring such suits is refused where friendly intervention has failed, but the enforcement of the decree has frequently averted litigation between laymen and clerics.

Youngster of 5 Shoots His Mother. Five-year-old Henry Ekstedt of 193 Halstead street, Jersey City, picked up a revolver, which his father, Gustave Ekstedt, had left on a stationary wash tub last night and pointing it at his mother pulled the trigger. The bullet entered Mrs. Ekstedt's right hip, inflicting a serious wound. She was taken to the City Hospital.

## Clothes—for the last-minute man—at Saks'

Q Some men have neglected the clothes proposition through press of business, others because they have been too busy with generous impulses, some because they know that ten minutes at Saks' will suffice for satisfaction, and many men have left the matter until the eleventh hour because of a delightful irresponsibility on the subject of time.

Q But whatever the reason, this much bear in mind: That no limitations attach to the eleventh hour at Saks'. In fact, we have no eleventh hour. The Saks assortments are a perennial fountain of new things—new fabrics, new colors, new models, and always the latest, smartest, over-the-wire style-features which reach Saks clothes first—and other clothes via the same route.

Q The suit you want for Christmas Day, or the frock coat in which you are to deliver some festive gem of thought, the overcoat which shall make you more warmly appreciate the cold, clear, crisp, congenial Yuletide chill, the full dress garment or the tuxedo for that great holiday of the human heart—Christmas Eve—all are at Saks'.

Q The Saks assortments are a feast of economy and a flow of style. None may gather round our assortments and go unsatisfied. The man who is fighting for a hearing, the man who is getting it, the man who is making himself heard, each will find at Saks' that we have tailored him perfectly, consulted his opinion on style, conformed to his preference in color, carried out his ideas on fabric, and priced the particular garment he wants at the particular price which he has in mind to pay.

Q We have tailored the business man, the professional man, the conservative man, the ultra man, the fastidious man, the man of means and the man who has his means to acquire, the man of importance and the man whose importance is in the making. And we have tailored him—man—composite man—in a fashion and in a manner which, briefly and truthfully stated, is appreciably better than anyone anywhere anytime has tailored him before.

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Herald Sq., 34th to 35th Broadway Street.

## Best &amp; Co.

Fifth Ave. at Thirty-Fifth St.

Owing to the death of Mr. Thomas R. Ball, this store will be closed on Friday and Saturday.

## ARABS WOUND 78.

Besides KILLING SIX Italians in Sharp Tripolitan Attack.

Special Cable Dispatch to THE SUN.

TRIPOLI, Dec. 21.—Three battalions of Italian troops that left Ain Zara for the interior on Tuesday were attacked by Arab horsemen, and six Italians were killed, while seventy-eight were wounded.

The losses of the Arabs are not reported. The Arabs were at first dispersed by the Italians, but attacked the Italians again when the latter were returning to Ain Zara. The fighting is described as severe.

## TO VOTE ON ENGLISH STRIKE.

Decided For Miners Will Go Out in February.

Special Cable Dispatch to THE SUN.

LONDON, Dec. 21.—The Miners Federation has decided to take a vote on the question of national stoppage of work in the mines based on the demand for a minimum wage.

If a two-thirds majority of the members of the federation vote to stop work the strike will be ordered for the end of February.

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## DA VINCI CRUCIFIX SOLD.

An American Gets It in Madrid, Paying \$125,000.

Special Cable Dispatch to THE SUN.

MADRID, Dec. 21.—An ivory crucifix, the work of Leonardo da Vinci, has been bought from the wife of Deputy Mayor by an unnamed American for the sum of \$125,000.

Sefora Mayner inherited the crucifix from her mother.

## Gov. Colton of Porto Rico Coming Here.

Special Cable Dispatch to THE SUN.

SAN JUAN, P. R., Dec. 21.—Gov. George R. Colton sailed yesterday for New York on board the steamship Coamo. He has been called to Washington to discuss Porto Rico affairs.